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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,398	08/01/2003	Steve Foust	FOU002USPT02	6072
23403	7590	04/07/2005	EXAMINER	
SHERRILL LAW OFFICES 4756 BANNING AVE SUITE 212 WHITE BEAR LAKE, MN 55110-3205			MARC, MCDIEUNEL	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,398	<b>Applicant(s)</b> FOUST, STEVE	
	<b>Examiner</b> McDieunel Marc	<b>Art Unit</b> 3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 4,10 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/1/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/1/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims are presented for examination.

#### ***Specification***

2. The abstract of the disclosure is objected to because of the words "means and invention". Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3661

4. Claims 1-3, 1-9, 11-15 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by **Strumolo et al.** (U.S. Pat. No. 6,831,572).

As per claims 1, 6 and 12, **Strumolo et al.** teaches collision warning system and an associated method which equates to proactive collision avoidance system (see fig. 2), comprising:

(a) a first paired set of a transmitter and a receiver (see abstract), wherein:

(1) the transmitter is effective for transmitting a radio signal (see abstract), and

(2) the receiver is effective for receiving a radio signal from a limited distance

(see figs. 1-2);

(b) a means for preventing the receiver in the first paired set from receiving the radio signal transmitted by the transmitter in the first paired set while permitting the receiver in the first paired set to receive a radio signal transmitted by a transmitter in a second paired set (see figs. 1-2); and

(c) a means in electrical communication with the receiver in the first paired set for generating a perceptible signal upon receipt of the radio signal from the second paired set (see figs. 1-2); and

(c) receiving the radio signal from the transmitter of the second paired set installed on a second recreational vehicle, by the receiver of the first paired set, wherein the perceptible signal is generated by the first paired set so as to provide a warning that the second recreational vehicle is within the limited distance of the first recreational vehicle (see figs. 1-2, col. 5, lines 31-38 and col. 6, lines 14-23).

Art Unit: 3661

As per claims 2, 3, 8 and 9, **Strumolo et al.** teaches a system and an associated method, wherein the means for preventing the receiver in the first paired set from receiving the radio signal is a switch (see figs. 1-2, col. 5, lines 31-38 and col. 6, lines 14-23), note that beside having activation and deactivation, inherently the Strumolo's *et al.* vehicle contains switches; wherein the switch includes a timer (see figs. 1-2, switches with timer is inherent in vehicle art).

As per claims 5 and 11, **Strumolo et al.** teaches a system and an associated method, wherein the means in electrical communication with the receiver in the first paired set for generating a perceptible signal upon receipt of the radio signal from the second paired set is a tone decoder and an LED display (see col. 3, line 57 – to – col. 4, line –13 and 42-47).

As per claims 7 and 13, **Strumolo et al.** teaches a system, wherein the recreational vehicle is a snowmobile (broadly, the snowmobile has been considered as vehicle of choice).

### ***Allowable Subject Matter***

5. Claims 4, 10 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

Art Unit: 3661

The prior art of record fail to teach or fairly suggest with respect to claims 4, 10 and 16, a collision avoidance, wherein the timer is set to alternate between the transmitter and the receiver of the first paired set every 0.5 to 2 seconds in combination with the other elements and features of the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (703) 305-4478. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

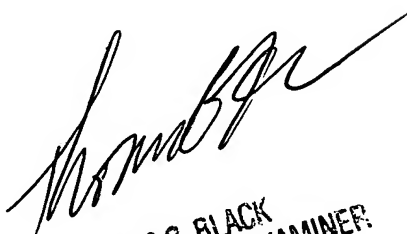
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
McDieunel Marc

Wednesday, March 23, 2005

MM/

  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 3600